

Town of Union

PLAN COMMISSION MEETING

Minutes of August 12, 2008

The Town of Union Plan Commission special meeting was called to order on Tuesday, August 12, 2008 at the Evansville Fire Station, 10 W. Church St., Evansville, WI at 6:08 p.m. by Doug Zweizig, Co-Chairman. Members present included Doug Zweizig, Kim Gruebling, Eric Larsen, Dave Pestor, Renee Exum, and Doug Lee. Also in attendance: Town Chairman Kendall Schneider, Town Engineer Greg Hofmeister, Town Attorney Matt Dregne, and Clerk Regina Ylvisaker.

Approve July 28 2008 Plan Commission Minutes.

Motion to approve July 28, 2008 meeting minutes made by Eric Larsen, second by Dave Pestor. Motion carried by unanimous voice vote.

Review, discussion and possible modification of the Draft Large Wind Turbine Siting Ordinance.

Doug Zweizig discussed possible topics of discussion for the meeting, including:

- Summary of Issues from Zweizig
- Setbacks
- Page by page review of draft ordinance, starting at page 18
- Personal experiences of Plan Commission members at turbine sites

Kim Gruebling requested addressing issues on page 11, regarding ice throw calculation; and page 20, signage and fencing.

Page 11, (12) (a): Gruebling doesn't see any information regarding what requirements the requested Ice Throw Calculations plan is supposed to meet; also questions who reviews the information in the plan once submitted. He believes the "Findings" section of the ordinance will state the distance ice throw can travel; doesn't believe it is needed in this section of the ordinance. Jim Bembinster stated that the section was included to support the safety part of the setback requirements. Bembinster stated that an astrophysicist from Rutgers University has extensive background in this area, and will do an area specific report for Town of Union for \$350. The calculation in the "Findings" is based on a specific turbine model turning at a specific speed. Attorney Matt Dregne believes that if this information would be relevant to setback requirements, it needs to be inserted in the ordinance in such a way as to support the setbacks. Zweizig suggested inserting a statement similar to "unless a larger setback is indicated as a result of the Ice Throw Calculations plan" in the "Setbacks" section of the ordinance.

Gruebling stressed that Plan Commission has a deadline to meet on completing their review of the ordinance; an extension to November 15 has already been granted but that date is the deadline for the Town Board to act on the ordinance. The Plan Commission must be done with their review prior to that.

Doug Lee felt that the draft ordinance has set a short setback distance at ½ mile; he believes that the Plan Commission is trying too hard to stay within the ½ mile setback recommendation, despite the fact that most of the supporting documentation recommends a further setback distance. Dave Pestor believes the most important thing is the residential setback, which is needed to deal with residents' health and safety. He feels once the Commission settles on that, everything else within the ordinance will come together. Lee felt that to ensure public health and safety, if one setback recommendation is larger than all the others, that is the number that should be used. Gruebling felt the ordinance is placing same value on distance from a road as from a fallow soybean field when looking at ice throw issues; the field won't be in

use during the winter when ice throw would be a concern. He could support a larger setback for roads, to address the ice throw issue, but not for fields that no one is working in during the winter. Attorney Dregne believes that the information on ice throw should be included in the findings, whether it is used in the ordinance setback or not, as it will be supporting information for whatever setback is used. Zweizig mentioned that throw distances could change, based on new turbines or technology. Eric Larsen was of the opinion that the entire issue may be a non-issue, as it seems that ice and blade throw happen infrequently. Pestor stated that the farmer in Brownsville living near a wind farm believed it was an issue; he could feel the ice hitting the ground.

Dregne recommended that the ordinance currently has a nonparticipating land owner setback of 1000' or 5 times the rotor diameter; could add another "or" to this regarding ice throw or blade throw. He felt that would be the best way to incorporate the study into the ordinance, solving the issue.

Page 18, J (1) (a): Gruebling believes this setback is not necessary when dealing only with a property line. Lee felt that if that was the case, future landowners need to know that the piece of property is unbuildable in the future due to the distance to a turbine. Attorney Dregne stated that although the parcel's future development options may be limited, this fact cannot be used as a basis for adopting a requirement?

Motion to leave statement J (1) (a) as written made by Kim Gruebling. Second by Eric Larsen. Motion carried by unanimous voice vote; Doug Lee abstained from voting.

Page 19, J (1) (b): Setback from public road, railroad or power line. Regarding the issue of setback for ice throw, Larsen believes a more likely problem would be the ice left in the road from the ice throw, not the ice in the air. Bembinster stated that the research documents only detail the size of the chunks, which can be up to several hundred pounds. The documentation does not specify the distance the ice throw can travel. Gruebling thought it was unlikely that the larger, heavier pieces would travel very far. Lee stated that even small items, if coming from a large distance away, can cause damage. Greg Hofmeister stated that falling ice in larger cities is a much larger danger than ice throw in a cornfield.

Motion to leave statement J (1) (b) as written made by Eric Larsen. Second by Kim Gruebling. Motion carried by unanimous voice vote.

Page 19, J (1) (c): Motion to leave statement J (1) (c) as written made by Kim Gruebling. Second by Eric Larsen. Motion carried by unanimous voice vote.

Page 19, J (1) (d): Pestor felt that the minimum recommendation should not be used for setbacks, as there is evidence to back up using a larger distance; firmly believes that it should be more than ½ mile, possibly 1 mile. The longer the distance, the fewer problems there will be with noise. Felt that the Town must protect as many people as it can, while realizing it can't protect them all. Larsen suggested the Plan Commission should decide which findings it has the most faith in, and use that to base the setback requirements on, and specify which finding it is within the ordinance. Zweizig mentioned that the French Academy of Medicine is recommending .93 mile. Gruebling reminded the Plan Commission that the Citizens Committee studied this issue and recommended a ½ mile setback; he believes that to go with a further setback than that would be weakening our position. Additionally, he stated his opinion that the report from the Committee is very biased; he didn't find anything positive about wind energy within the report. He recognizes that there are points in the report that are very important, such as once the turbines are up they're up. However, although he doesn't know if we need to be down to a 35 dB noise requirement, he would err on the side of caution and support 35 dB. It is possible to find documentation supporting setback recommendations of up to 2 miles, but despite this fact the Committee still recommended ½ mile. Larsen agreed that when he first read the report, he felt everything was negative

but thought about it and felt that there would not be a statement saying that wind turbines are good for anyone's health, the best you could hope for would be a neutral statement. Lee reminded the Commission that the information from the wind energy developers was all positive; it depends on who is presenting the information and their experiences and opinions.

Attorney Dregne commented that it is apparent in the findings that there is no easy answer to this question. However, if the setback requirement will be based on a certain thing (i.e. dBa) it must be consistent throughout ordinance. The challenge now is how to come to an approach that is internally consistent?

Regarding the noise study, Larsen felt it was important to be specific as to what is required in the study to be sure that the findings are good, accurate. Questioned how you know which turbine is making the noise, if there is more than one in the vicinity. For example, Gerry Meyers stated the turbine ½ mile away from his home is as loud as the one 1500' away. Bembinster has been to the site (Meyers), and he stated that they can tell depending upon wind gusts, one turbine becomes louder than another.

Referencing the Kemperman/James study, Attorney Dregne sees no mention of setback issues. Therefore, he does not believe that the Town can base any setback requirements on this study, as the study does not deal with setbacks. Sound modeling would allow the Town to deal with technology changes, according to Zweizig, whereas a distance setback would not. This would help in adjusting to emerging technology. Pestor suggested using a one mile setback, with a statement that if sound modeling would allow less than one mile then a shorter setback would be allowed. Attorney Dregne thinks this is a viable option, it gives the wind industry the option to use one mile if they can but try the sound modeling. Larsen thinks that due to the variables in sound studies, industry will make the sound modeling say whatever they want, to get to the setback distance they want. Essentially, there is no minimum setback then. Zweizig suggested setting a minimum setback as well. The question then became, why not just go with one mile as the setback and make it simple?

Zweizig suggested that during the upcoming week Plan Commission members review the Kemperman and James study thoroughly and see if they want to use it as the basis for the ordinance. Kemperman's enforcement ideas were reviewed by Dregne, and he feels they could be strengthened. Zweizig is concerned about enforcement. Bembinster suggested that the Town currently puts limits on operation for things like gravel pits, which is based on peoples assumptions that the trucks, etc involved in the operation will make noise. The same idea could be used for wind turbines. Attorney Dregne mentioned that Kemperman's draft ordinance has a very nice way of laying out the ordinance, which he felt is better than the Town's current draft.

J (1) (d) remains as is for now.

Page 20, J (1) (e): Per Hofmeister, sinkholes and groundwater and well protection are issues covered by the DNR. Bembinster stated that the intention of the section was to avoid oil (300 gallons) from a turbine tipping over running directly into the ground through a sinkhole. Hofmeister countered that this could occur on any farm; additionally sinkholes can be located anywhere. Borings could be done throughout a 100 square foot grid and miss them. Renee Exum questioned if a map of the depth of the bedrock throughout the Township could be obtained. She believes if the bedrock is shallow, then the Town should require the power companies to change their construction techniques. Lee believes this issue would be addressed by the Conditional Use Permit. Hofmeister believes that the DNR would provide the regulatory framework for this issue. Excavating bedrock happens all the time for many applications. Bembinster questioned at what point contractors have to contact the DNR; Hofmeister assumed it would be at the point when they are ready to blast. He didn't know that bedrock is an issue but depth to groundwater may be. Zweizig asked if the Town should ask the applicant to provide something from the DNR. Hofmeister

agreed they should, if groundwater protection is the issue. Dregne referenced requiring an environmental study (page 9), which includes determination of condition of wells all around construction area before and after construction. The current set up of the ordinance is to do testing, then blast, then test the wells again and if there is a problem it will be mitigated. Hofmeister stated that blasting can cause problems in wells, such as sediment being stirred up, but those issues generally clear up in a short period of time. They are common and temporary issues. It can be very hard to determine if the problem is long term or not. Dregne felt that if the DNR has the authority and responsibility to do something about it if there is a problem after blasting, then the Town should let them do that. Hofmeister felt that the overriding question is whether the Town is going to require these types of items/studies for other types of construction.

Motion to eliminate section J (1) (e) on page 20 made by Kim Gruebling. Second by Eric Larsen. Motion carried by unanimous voice vote.

Page 20, J (1) (f): "Emergency communication towers" are just 911 systems. A definition is needed for emergency communication towers. Attorney Dregne suggested replacing the "one mile" statement with "sited in compliance with any requirements shown by the study." Following discussion, motion was made by Eric Larsen to replace the "one mile" statement within J (1) (f) with "Towers shall be sited in accordance with the findings of the Microwave Beam Study and electromagnetic interference mitigation plan." Second by Kim Gruebling.

Following further discussion the motion was then amended by Eric Larsen to include "The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any Wind Energy Facility" from the state model ordinance. Second by Kim Gruebling.

Following further discussion, the motion was then amended by Eric Larsen to remove the word "minimize." Second by Kim Gruebling. Motion carried by unanimous voice vote.

Page 20, J (2): Motion to remove this section in its entirety made by Kim Gruebling. Second by Eric Larsen. Motion carried by unanimous voice vote.

Lee reported on his findings regarding the issue of Town roads. He spoke to Kathleen Nichols at the Wisconsin DOT, who handles all permitting of wind energy movements and is very knowledgeable in this area. The equipment related to wind energy varies in size weight and length. As a Township, we have jurisdiction over the State and Town roads within our Town, and therefore can require developer to obtain permits through us and require the developer to be escorted by permit service or local law enforcement, and can require that the developer provide the funds to cover the costs associated with permitting. No matter what, there will be road alterations and traffic concerns, signs moved, flagmen, disruptions of traffic. Lee also talked to Bill Fannucchi at the Public Service Commission, who recommended requiring the developers to provide a risk assessment to let the Town know about their plans for widening roads, removing roads, as the turning radius on the trucks will be beyond the capability of our Town roads. Fannucchi also stated that there will be damage to the roads, according to everything he's seen put up. The installer will need to be responsible for flagmen, removal of trees, will have to offer compensation to landowner or Town for trees removed. He recommended leaving nothing not in writing; according to Lee Fannucchi was very strongly opinionated on this, as he has seen many problems in siting and transporting units. He stated that per State ordinance 348.25 & 26 we do have jurisdiction. Requiring a risk assessment will need to be part of the ordinance. Page 18, (h) will need to be revised to include this information. Nichols did say that some installers, particularly General Electric, have been very willing to be community minded, i.e. offer quite a bit of compensation for the work being done just to get them sited. Other installers are not as willing to provide compensation, but some are very open.

Larsen asked what a risk assessment would include. Installers will know site location and the roads they will use, then they will need to figure out what will need to be removed or altered to make corners (remove fences, fill in ditches) according to Lee. Zweizig asked if "risk assessment" is a standard term; Dregne suggested asking both Nichols and Fannucchi for standard language, forms, etc they use, Lee will contact them and obtain it. Larsen expressed concern about the roads themselves getting torn up; Lee stated this would be part of the risk assessment.

Page 20, (K): Signage & fencing. Gruebling recommended as a minimum, requiring two signs on each facility, one on the tower and one on the fencing; and requiring one sign at the access drive to facility. He also suggested removing the statement "...for every 40 acres within the Facility" as nothing will be that size.

So moved by Kim Gruebling. Second by Eric Larsen. Motion carried by unanimous voice vote.

Page 20, (L): Stray and ambient current/voltage. Dregne felt that putting the Town Board in the position of determining what "good utility practices" are is a problem. Utility companies are in a position of litigation for stray voltage and are aware of the issue. Statement as it reads now is not meaningful.

Motion to eliminate (L) made by Kim Gruebling. Second by Eric Larsen.

Pestor stated that stray voltage is a real issue, has experience in it. Dregne stated if the Town needs to handle stray voltage issues, it needs to be dealt with differently than it is in this statement. Individuals can sue power companies if they are concerned about stray voltage. Pestor explained that it is his understanding that individuals must have their farm tested for stray voltage before the potentially offending utility is installed, and again after it's installed. Dregne suggested the ordinance should require the establishment of a baseline. One question brought up by Dregne was how far from the turbine to test? Cathy Bembinster stated that per her findings from the PSC, the problems with stray voltage are in the distribution lines, not transmission lines, and thus stray voltage has not been an issue with wind turbines.

Motion withdrawn by Kim Gruebling.

Zweizig will request Bob Fahey to comment on the stray voltage issue.

Motion to adjourn by Kim Gruebling. Second by Eric Larsen. Meeting adjourned at 8:55 pm.

Respectfully submitted by:

Regina Ylvisaker, Clerk

Note: Minutes are considered draft until reviewed and approved by the Plan Commission at a properly noticed meeting